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8 UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
9 AT SEATTLE

10 In re: PHILLIP O. EMIABATA,

11 Appellant,

12 v.

13 SPECIALIZED LOAN SERVICING,  
14 LLC, and AVAIL 1 LLC,

15 Appellees.

CASE NO. C17-1752 MJP

ORDER ON MOTION TO STAY  
EXECUTION OF JUDGMENT  
PENDING APPEAL

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17 The Court has received and reviewed

- 18 1. Appellant's Motion to Stay Execution of Judgment Pending Appeal (Dkt. No. 8),  
19 2. Avail 1 LLC's Response (Dkt. No. 9),  
20 3. Specialized Loan Servicing LLC's Response (Dkt. No. 10),

21 all attached declarations and exhibits, and relevant portions of the record, and rules as follows:

22 IT IS ORDERED that the motion is DENIED.

23 Appellant requests stay of an order entered by the Bankruptcy Court of the Western  
24 District of Washington granting relief to Appellees from the bankruptcy stay. *See* Bankruptcy

1 Case No. 17-13905-TWD. In determining whether to grant a stay pending appeal, the moving  
2 party must satisfy a four-factor test:

3 (1) Whether the stay applicant has made a strong showing that he is likely to succeed  
4 on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3)  
5 whether issuance of a stay will substantially injure the other parties interested in the  
6 proceeding; and (4) where the public interest lies.

6 Nken v. Holder, 556 U.S. 418, 426 (2009).

7 Appellant has not succeeded in establishing a single one of these factors. To the extent  
8 that the Court can decipher his rambling, disjointed pleading, it is not at all apparent that he has  
9 any proof of the “violations” he alleges, nor that he will succeed on the merits of his case. His  
10 “irreparable injury” appears to be related to a malpractice claim against his counsel, a connection  
11 which is entirely illogical. Nor is the Court persuaded by his argument that the Appellees will  
12 not be harmed by a stay. Appellees’ statement of the facts (which Appellant has not  
13 controverted) establishes a lengthy delay in enforcing their rights to property which Appellant  
14 has charged rent on without paying a mortgage for approximately a decade. The Court finds that  
15 a stay would substantially injure the non-moving parties, and would most certainly not serve the  
16 public interest.

17 Therefore, Appellant’s motion for stay of execution of judgment is DENIED.

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19 The clerk is ordered to provide copies of this order to Appellant and to all counsel.

20 Dated: January 17, 2018.

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23 Marsha J. Pechman  
24 United States District Judge